

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ST. LOUIS POLICE RETIREMENT SYSTEM,
On Behalf Of Itself and All Others Similarly
Situating and Derivatively on Behalf of Nominal
Defendant ABAXIS, INC.,

Plaintiff,

v.

CLINTON H. SEVERSON, ALBERTO R.
SANTA INES, KENNETH P. ARON,
VLADIMIR E. OSTOICH, DONALD P.
WOOD, MARTIN V. MULROY, RICHARD J.
BASTIANI, MICHAEL D. CASEY, HENK J.
EVENHUIS, PRITHIPAL SINGH, VERNON
E. ALTMAN, AND ERNEST S. TUCKER,

Defendants,

and

ABAXIS, INC.

Nominal Defendant.

CASE NO. 12-CV-05086-YGR

FINAL ORDER AND JUDGMENT

1 interests of Abaxis and the Class; (e) the prosecution of separate actions by individual
2 members of the Class would create a risk of either (i) inconsistent or varying
3 adjudications with respect to individual members of the Class which would establish
4 incompatible standards of conduct for Defendants, or (ii) adjudications with respect to
5 individual members of the Class which would as a practical matter be dispositive of the
6 interests of the other members of the Class who are not parties to the adjudications or
7 substantially impair or impede their ability to protect their interests; and (f) there were
8 allegations that Defendants acted or refused to act on grounds generally applicable to the
9 Class, thereby making appropriate final injunctive relief or corresponding declaratory
10 relief with respect to the Class as a whole. Thus, for the purposes of settlement only, the
11 Action is a proper class action pursuant to Federal Rules of Civil Procedure 23(a),
12 23(b)(1) and 23(b)(2).

13 4. The Action is certified as a mandatory non-opt-out class action pursuant to
14 Federal Rules of Civil Procedure 23(a), 23(b)(1) and 23(b)(2) on behalf of a class
15 consisting of all persons and entities that held common stock in Abaxis as of the close of
16 business on August 31, 2012, which represents the record date for the shareholders
17 entitled to vote at Abaxis's October 24, 2012 Annual Meeting (excluding the Individual
18 Defendants, members of the immediate family of any Individual Defendant, and any
19 person, firm, trust, corporation, or other entity related to, or affiliated with, any Individual
20 Defendant, and the legal representatives, heirs, successors or assigns of any such
21 Excluded Person).

22 5. Plaintiff St. Louis Police Retirement System is hereby certified as Class
23 representative.

24 6. The Court finds that the notice of the proposed Settlement disseminated to
25 Abaxis shareholders satisfied the requirements of due process and all other applicable
26 laws, and constitutes due and sufficient notice to all persons entitled thereto.
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1 7. All members of the Class are bound by this Final Order and Judgment, as
2 full and adequate notice of the proceedings was given and a full opportunity to be heard
3 was provided to members of the Class.

4 8. The Court finds that, during the course of the litigation of the Action, the
5 Parties and their respective counsel at all times complied with the requirements of
6 Federal Rule of Civil Procedure 11 and all other similar laws.

7 9. The Court finds that the terms of the Stipulation and Settlement are fair,
8 reasonable and adequate as to the Class and each of the Parties, and hereby finally
9 approves the Stipulation and Settlement in all respects, and orders the Parties to perform
10 its terms to the extent the Parties have not already done so.

11 10. The Action and all claims contained therein, as well as all of the Released
12 Claims, are hereby dismissed with prejudice. The Parties are to bear their own costs,
13 except as otherwise provided in the Stipulation.

14 11. Upon the Effective Date, as defined in the Stipulation, Plaintiff (acting on
15 its own behalf and derivatively on behalf of Abaxis), Abaxis, and each member of the
16 Class (solely in his, her or its capacity as an Abaxis shareholder) shall be deemed to have,
17 and by operation of this Final Order and Judgment shall have, fully, finally and forever
18 released, relinquished and discharged the Released Claims against the Released Persons
19 and any and all claims (including Unknown Claims) arising out of, relating to, or in
20 connection with, the defense, settlement or resolution of the Action against the Released
21 Persons.

22 12. Upon the Effective Date, as defined in the Stipulation, each of the
23 Released Persons, Abaxis and each member of the Class (solely in his, her or its capacity
24 as a Abaxis shareholder) shall be deemed to have, and by operation of this Final Order
25 and Judgment shall have, fully, finally and forever released, relinquished and discharged
26 each and all of the Plaintiff and Plaintiff's Counsel from all claims (including Unknown
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1 Claims) arising out of, relating to, or in connection with, the institution, prosecution,
2 assertion, settlement or resolution of the Action or the Released Claims.

3 13. The Parties have expressly waived any and all provisions, rights and
4 benefits conferred by any law of any jurisdiction or any state or territory of the United
5 States, or principle of common law, which is similar, comparable or equivalent to
6 California Civil Code § 1542, which provides:

7 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
8 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR**
9 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH**
10 **IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED**
11 **HIS OR HER SETTLEMENT WITH THE DEBTOR.**

12 The Parties acknowledge, and members of the Class are hereby deemed to have
13 acknowledged, that the waiver of Unknown Claims was separately bargained for and is a
14 key element of the Settlement.

15 14. Abaxis, Plaintiff and each member of the Class (solely in his, her or its
16 capacity as an Abaxis shareholder) are hereby forever barred and enjoined from
17 instituting and/or prosecuting any other action against the Released Persons in any court
18 or jurisdiction asserting any Released Claims.

19 15. Nothing herein shall in any way impair or restrict the rights of any Party to
20 enforce the terms of the Stipulation.

21 16. Plaintiff's Counsel is hereby awarded **\$579,429.53** for attorneys' fees and
22 reimbursement of expenses, subject to Plaintiff's Counsels' joint and several obligations
23 to refund or repay within ten (10) business days any amounts paid if, for any reason,
24 including as a result of any appeal and/or further proceedings on remand, or successful
25 collateral attack, the amount awarded is lowered, overturned, or reduced.

26 17. This Final Order and Judgment shall not be deemed a presumption,
27 concession, or admission by any Party of any fault, liability, or wrongdoing, or lack of
28 merit as to any facts or claims alleged or asserted in the Action or in any other action or
proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received

1 into evidence or otherwise used by any person in the Action or in any other action or
2 proceeding, whether civil, criminal, or administrative, except in connection with any
3 proceeding to enforce the terms of the Settlement. The Released Persons may file the
4 Stipulation and/or this Final Order and Judgment in any action that may be brought
5 against them in order to support a defense or counterclaim based on principles of *res*
6 *judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment
7 bar or reduction or any other theory of claim preclusion or issue preclusion or similar
8 defense or counterclaim; and any of the Parties may file the Stipulation and documents
9 executed pursuant thereto and in furtherance thereof in any action to enforce the
10 Settlement.

11 18. Without affecting the finality of this Final Order and Judgment in any
12 way, this Court hereby retains continuing jurisdiction for a period of one (1) year from
13 the date hereof with respect to implementation and enforcement of the terms of the
14 Stipulation.

15 19. This Final Order and Judgment is a final, appealable judgment and should
16 be entered forthwith by the Clerk in accordance with Federal Rule of Civil Procedure 58
17 and all other similar laws.

18 IT IS SO ORDERED.

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20 DATED: August 12, 2014

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22 YVONNE GONZALEZ ROGERS
23 UNITED STATES DISTRICT JUDGE
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